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Citizenship in Europe: The Main Stages of Development of the Idea and Institution

Abstract

This paper identifies and synthetically demonstrates the most important steps and changes in the evolution of the idea and institution of citizenship in Europe over more than two thousand years. Citizenship is one of the essential categories defining human status. From a historical perspective, the idea of citizenship in Europe is in a state of constant evolution. Therefore, the essence of the institution of citizenship and its acquisition criteria are continually being transformed. Today's comprehension of citizenship is different from understanding citizenship in Europe in earlier epochs of history. In some of them, the concept of citizenship existed only in the realm of ideas. In others, the idea materialised, and membership in the state (or city) and civic rights and obligations found a formal, legal expression. The formation of the idea and institution of citizenship is a long and multi-phase process.

Keywords: Citizenship, Citizen, Subjecthood, Subject, Evolution, History

Introduction

Citizenship is one of the essential categories defining human status. From a historical perspective, the idea of citizenship in Europe is in a state of constant evolution. Therefore, the essence of the institution of citizenship and its acquisition criteria are continually being transformed. Today, citizenship can be regarded as a (relatively) lasting link between an individual and a state, manifested formally as territorial state-membership and materially as a status of full participation in rights (including political ones) and obligations determined by the legal order of the state

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concerned. However, the durability of citizenship, both temporal and spatial, is not absolute which means that there may be an expiry, a change, a waiver, and even (especially in countries with a nondemocratic regime) the deprivation of citizenship in some cases.

Today's comprehension of citizenship is different from understanding citizenship in Europe in earlier epochs of history. In some of them, the concept of citizenship existed only in the realm of ideas. In others, the idea materialised, and membership in the state (or city) and civic rights and obligations found a formal, legal expression. The formation of the idea and institution of citizenship is a long and multi-phase process.¹

This paper identifies and synthetically demonstrates the most important steps and changes in the evolution of the idea and institution of citizenship in Europe over more than two thousand years.

Ancient History

Two ancient models are crucial to the evolution of citizenship in Europe: Athenian and Roman. Originally citizenship was born in ancient Greek civilisation. Historical sources, especially the works of Aristotle,² suggest that citizenship was developed most maturely in Athens, although it was certainly no stranger to other cities-states of ancient Greece. Aristotle believed that the concept of a citizen is best defined by the ability to participate in courts and government. For Aristotle, a full citizen, a state being (*zoon politikon*), possessed political rights. These rights were never available to all residents of Athens.³ Initially, the group of citizens consisted exclusively of members of the wealthy aristocracy who owned land. They had the ability to arm themselves and defend the state. Solon's reforms linked the possession of part of the rights (especially the dignity of holding office) mainly to a property qualification.⁴ On the other hand, Cleisthenes' legislation created so-called new citizens from foreigners (*metics*) living permanently in Athens.⁵ However, it was Pericles (5th century BC) who ultimately shaped the right of citizenship, making its acquisition dependent mostly on the birth of local citizens and, therefore, on origin.⁶

¹ K. Trzciński, *Obywatelstwo w Europie. Z dziejów idei i instytucji*, Scholar, Warszawa 2006.

² See Aristotle, *Politics*; *Constitution of the Athenians*; *Nicomachean Ethics*.

³ P.B. Manville, *The Origins of Citizenship in Ancient Athens*, Princeton NJ 1990, pp. 3–34.

⁴ M. Grant, *The Rise of the Greeks*, London 1987, pp. 47–48.

⁵ J.B. Bury, R. Meiggs, *A History of Greece to the Death of Alexander the Great*, London 1975, pp. 136–138.

⁶ M. Grant, *The Classical Greeks*, London 1989, p. 69.

Citizenship offered equality before the law (*isonomia*) and freedom (*eleutheria*). Equality meant both the same treatment of all citizens before the courts, equal opportunities in access to state functions, and equality of every vote in the people's assembly. On the other hand, freedom was not just a denial of slavery because it involved civic activity. Freedom was perceived as responsible cooperation between all citizens for the common good. In principle, citizenship was also a profession because citizens' exercise of political rights was paid for from the state budget.

Civic status had a clear material dimension since it afforded the ability to acquire land and testamentary succession law privileges.⁷ In some cases, it meant qualification for state aid (access to benefits and food allocation). Citizenship was linked to various responsibilities, including military service, state defence, and the payment of taxes. Citizenship in Athens became a kind of arrangement of interests – in the case of full (active) citizenship a simple principle was developed, according to which more rights went hand-in-hand with more responsibilities. Aristotle also distinguished the category of non-active (or passive) citizens, i.e., those subject to private-law privileges (including a fundamental right of succession), but deprived of political rights. This group mainly included minors and women.⁸ The descendants' rights depended on whether the mother had civic status (if she came from a family of Athenian citizens). Consequently, the son of an Athenian citizen and a foreign woman was treated as a foreigner even if he had been born and lived in Athens. Personal freedom, legal residence (*domicile*), and origin were the main characteristics of Athens's restricted citizenship status. In the case of full citizenship, the age of maturity and gender (male) became additional requirements.⁹

Ancient Rome's citizenship was initially formed in a municipal state, but unlike ancient Greece, it gradually expanded territorially. The first full Roman citizens were free-born, wealthy men who had family ties with the town's progenitors and had a political and military role. The development of Roman citizenship proceeded in two main ways. On the one hand, as *mutatis mutandis* did in Athens, it covered an ever-wider part of the native community (by establishing the institutions of the people's tribune, the law's codification by the law of the Twelve Tables, the introduction of the *Lex Hortensia*). On the other hand, it accompanied the expansion of Rome into new territories. However, the citizenship

⁷ J.V.A. Fine, *The Ancient Greeks. A Critical History*, Cambridge MA 1983, p. 394.

⁸ A.J. Podlecki, *Perikles and his Circle*, London 1998, p. 159.

⁹ D. Whitehead, *Norms of citizenship in Ancient Greece*, in: *Athens and Rome, Florence and Venice: City-States in Classical Antiquity and Medieval Italy*, eds. A. Molho, K. Raafaub, J. Emlen, Ann Arbor MI 1991, pp. 135–154.

rights of all free residents of Rome in the 3rd century BC did not automatically apply to the population of conquered areas. The Romans applied the principle of the personality of the law, according to which a resident of an empire from outside the capital was treated in it according to the legal rules in force in the place of his birth (original residence). The principle of the personality of law is the opposite of the current principle of territoriality of law.

The Romans used citizenship to reward individuals and even entire communities.¹⁰ This practice was already known in Athens. However, on Roman soil it did not have to be a reward for merit, and for example could be applied to those who won in a trial with a Roman official. The equalisation of rights with Romans was nevertheless infrequent, which only reinforced demand among Rome's allies for the spread of Roman citizenship.¹¹ In the 1st century BC, Roman citizenship was endowed to the Italic peoples. During the Empire, Caracalla (212 AD) granted citizenship to almost all imperial inhabitants, considering permanent residence (*domicilium*) as a primary condition for its possession, in addition to personal freedom.¹² Before the spread of Roman citizenship, it was possible to hold dual citizenship.¹³ This institution, unknown in Athens, occurred in Rome mainly when a citizen of a city located in a Roman province obtained an empire's citizenship without renouncing their previous status. A qualitative change in its content accompanied the spatial expansion of Roman citizenship. Before the edict of Caracalla, citizenship was very closed and elitist and for its depositaries represented a kind of dignity that was clearly downgraded when citizenship became a universal good. This transformation was the culmination of weakening political rights in that era, which had initially constituted the essence of citizenship. However, at the same time, it included a system of extensive Roman private law for the population of a considerable part of the then known world. In ancient Athens, political freedom gave full substance to the institution of citizenship, while in Rome, in the days of the Republic, political rights were losing value as democracy withered. The Romans consequently developed a citizenship model in which equality before the law was a priority over (the possibility) of active participation in political life.¹⁴

¹⁰ A.N. Sherwin-White, *The Roman Citizenship*, Oxford 1939, pp. 327–328.

¹¹ F. Schulz, *Classical Roman Law*, Oxford 1961, p. 79.

¹² K. Christ, *The Romans*, Berkeley 1984, p. 18.

¹³ O. Dawn, D. Heater, *The Foundations of Citizenship*, London 1994, pp. 10, 24; K. Christ, *The Romans*, op. cit., p. 82.

¹⁴ See: Marcus Tullius Cicero, *On the Republic; On the Laws; On Duties*.

Roman citizenship was strictly juridical in nature and constituted an extensive catalogue of individual rights.¹⁵ Of fundamental importance here was legal capacity, which was determined by the state of freedom and the position occupied in the family. Only an individual with personal freedom could become a Roman citizen. However, the presence of different legal quasi-slavery categories, which included “semi-free” individuals, complicated the clear division into free and non-free persons.¹⁶ It seems more accurate to distinguish between free-born and freedmen. Such a distinction was crucial from the point of view of the law of citizenship. Unlike the Athenians, the Romans gave emancipated slaves civil status, although this was incomplete.¹⁷ Freedmen as *cives non optimo iure* had only partial voting rights. The most severe for them, however, was the limited *ius conubii* (capacity to enter into a legally recognised marriage to a Roman citizen), the complete absence of *ius honorum* (the right to be elected to public office), and the need to stay in the former owner’s (patron’s) custody and the compulsion to provide various services to them).

In Rome, the equivalent of Athenian limited citizenship of women and men unable to serve in the army was *civitas sine suffragio*. This “semi-citizenship” deprived women and minors of the opportunity to participate in public affairs. For a long time, it was also connected to their limited position in the family, including the subjection to the head of the family’s will. Such dependents were also deprived of legal capacity to possess property (or it was limited). Although women were able to obtain it fully in the absence of dependence on marital or parental authority, this never led to their obtaining political rights.¹⁸ On the other hand, men’s citizenship became more complete the older they were and more independent of parental authority. This situation stood in contrast to the Athenian model, in which young men became citizens with full rights after reaching the age of maturity. Therefore, with some simplification, it can be concluded that Rome’s full citizenship was held by free-born and materially independent adult men whose parents were Roman citizens. Such *cives optimo iure* had all private and public rights and were subject to civil obligations in accordance with the principles of allegiance (*obedientia*) and service (*officium*) for the good of the state.

¹⁵ K. Trzciński, op. cit., pp. 50–54.

¹⁶ P. Garnsey, R. Saller, *The Roman Empire: Economy, Society and Culture*, Berkeley CA 1987, pp. 111–112.

¹⁷ M.H. Hansen, *Demokracja ateńska w czasach Demostenesa. Struktura, zasady i ideologia*, Warszawa 1999, pp. 105–106.

¹⁸ A. Arjava, *Women and Roman Law in Late Antiquity*, Helsinki 1994, pp. 296–297.

Medieval Ages and Renaissance

Citizenship once again found its way into cities in large areas of medieval Europe. However, unlike the Greek poleis, these cities usually were not states, but only a part of them, so municipal citizenship was rather a limited phenomenon. Its creation is related to the system of estate monarchy and the separation of the commoners' estate.¹⁹ The urban population was initially heavily dependent on feudal power, which was a significant obstacle to securing its personal freedom and the inviolability of property. However, the communal movement cleverly exploited the rivalry between the nobility and the monarchic authority, obtaining for cities a broad autonomy guaranteed by the statutes, which created the citizen as an entity with urban rights.²⁰

Being a citizen of a medieval European city depended on several requirements.²¹ The following must be considered as basic: domicile (permanent residence *intra muros*), origin from a family of citizens (right of blood, *jus sanguinis*), or at least birth in the city (right of soil, *jus soli*). However, over time municipal authorities began to introduce new conditions for access to citizenship, including, in particular, the ownership of immovable property, which guaranteed tax revenues to the local treasury. Besides, municipal citizens' recommendations, birth in lawful wedlock, local marriage, "legitimate" religion, or good reputation (*bona fama*) were often necessary to become citizens of European cities. Ultimately, the granting of citizenship to strangers had to be according to the general criterion of usefulness for the municipal community, which is why, in addition to wealthy persons, skilled craftsmen were often preferred.

Restricting access to citizenship was by no means just about newcomers, but also about the city-dwellers themselves.²² Initially, the civic community at least nominally included all free residents, but with the progressive monopolisation of power by wealthier citizens (*cives maiores*), who were usually property owners, the preserving of many rights was usually associated with the condition of affluence. Over time, municipal citizenship gradually lost its universality, and an empowered well-to-do citizen (*civis*) contrasted a disempowered, less well-off "ordinary" resi-

¹⁹ J. Huizinga, *Jesień średniowiecza*, Warszawa 1961, pp. 80–81.

²⁰ J.N. Claster, *The Medieval Experience: 300–1400*, New York University Press, New York 1982, p. 243.

²¹ D. Quaglioni, *The Legal Definition of Citizenship in the Late Middle Ages*, in: *City-States in Classical Antiquity and Medieval Italy: Athens and Rome, Florence and Venice*, eds. A. Molho, K. Raaflaub, J. Emlen, Stuttgart 1991, pp. 155–167.

²² P. Riesenbergs, *Citizenship in the Western Tradition: Plato to Rousseau*, Chapel Hill NC 1992, pp. 107, 116.

dent (*incola*).²³ This division translated into the existing social strata in the city. Therefore, the category of the municipal citizens included, in the first place, members of the patriciate, but also the commonality, while the category of “excluded” from citizenship covered mostly plebs (*vulgus*) who did not pay municipal taxes.²⁴ However, in practice, the patriciate controlled the municipal authorities, making of the commonality second-class citizens. Therefore, the possibility of universal participation in selecting the municipal authorities and the influence of the general public on the community’s affairs, so symptomatic at least for males at the beginnings of urban self-government, over time became a myth.

The catalogue of groundbreaking (as for the Middle Ages) city freedoms included, inter alia, personal freedom (prohibition of imprisonment without the permission of the court that stood in opposition to feudal serfdom – it is reflected in the famous principle “Stadluft macht frei”), freedom of movement, testation, and inheritance, as well as the freedom to perform any profession.²⁵ In addition, at least some citizens enjoyed political rights permitting participation in the election of authorities and in assemblies enacting local laws, setting taxes and determining spending of the city’s revenues. However, the medieval city citizen appeared to be more homo oeconomicus than homo politicus, for whom protectionist economic laws, especially customs freedoms, were of particular importance.²⁶ Rights have traditionally been linked to tax obligations, the duty to serve in the city guards, and to defend the city.

Over time, the freedoms enjoyed by citizens of medieval cities became attractive to other state members. One of the first acts of law to ensure the broader part of society’s protection against monarchical willfulness was the English Great Charter of Freedoms of 1215. During this period, the first representative assemblies were formed in Europe, which grouped into the so-called political nation. From now on, more prosperous or better-educated subjects became increasingly influential in the state, and the sphere of general freedom of individuals slowly expanded. The emancipation of the upper layers of the state’s population was accompanied by the development of European socio-political thought, which refreshed the ancient idea of state citizenship and, rather unsuccessfully, tried to transpose it into medieval reality.

²³ J. Le Goff, *Kultura średniowiecznej Europy*, Warszawa 1994, p. 284.

²⁴ H. Samsonowicz, *Życie miasta średniowiecznego*, Wydawnictwo Poznańskie, Poznań 2001, p. 54.

²⁵ K. Trzciński, *Geneza i istota średniowiecznego obywatelstwa miejskiego na zachodzie Europy. Przyczynek do badań dziejów obywatelstwa państwowego*, „Państwo i Społeczeństwo”, no. 3/2004, pp. 75–91.

²⁶ M. Weber, *The City*, New York 1962, p. 227.

The theoretical concepts of citizenship promoted not only its trans-local specificity but often also its universal character. And so, Dante Alighieri stressed the need to guarantee state members' freedom by introducing the rule of law.²⁷ John of Paris viewed the state as a collective of all citizens (*politia communis*) who should have the right to choose their authorities.²⁸ Marsilius of Padua clearly formulated the thesis on the sovereignty of the people and called a citizen every free entity that participated in the community's life and had an influence on the rule of the state.²⁹ In the 15th century, the Florentine writer and politician Leonardo Bruni openly associated universal citizenship with the state's development and its members' prosperity.³⁰ In the Renaissance era, Niccolò Machiavelli opted for universal and full-fledged citizenship and saw the best conditions for its development in the republican system.³¹ It was there that all estate divisions could be effectively abolished while preserving wealth differences in society.

Early Modern Period

The middle ages became the starting point for later models of state citizenship and the modern theory of personal rights. Nevertheless, in the early modern period, the development of citizenship was seriously slowed down, which was primarily linked to the advent in many European countries of the era of absolute monarchies and the slow decadence of municipal citizenship. Paradoxically, the progressive twilight of this form of citizenship also meant the state's gradual takeover of its legal solutions. However, future state-wide citizenship – extending the scope of its rights to a broader part of state members – could only develop in opposition to municipal citizenship.³²

Meanwhile, the rise of absolutism in much of Europe was achieved by restricting individual rights, eliminating (or diminishing the weight of) estate assemblies, and highlighting the omnipotent monarch-legislator's role. All subjects in this regime were subjected to a centralised monarchical authority system, which at a time of many wars on the European

²⁷ See: Dante Alighieri, *De Monarchia*.

²⁸ See: John of Paris (Jean Quidort), *De potestate regia et papali*.

²⁹ See: Marsilius of Padua, *Defensor pacis*.

³⁰ See: Leonardo Bruni, *Laudatio*; *Preface to the Translation of Aristotle's "The Politics"*; *Oration for the Funeral of Nanni Strozzi*.

³¹ See: Niccolò Machiavelli, *Discourses on the First Decade of Titus Livius*; *Art of War*; *Florentine Histories*; *The Prince*.

³² R. Brubaker, *Citizenship and Nationhood in France and Germany*, Cambridge MA 1992, p. 42.

continent seemed to guarantee state's members' security. This was the period of the beginning of the formation of nation states, and nationality as belonging to an ethnocultural community implied in principle territorial state-membership (*Staatsangehörigkeit*).³³ In the reality of an absolutist state, *Staatsangehörigkeit* of the whole population, combined with its subordination to the monarch's sovereign power, is called state subjecthood. The essence of this condition was the priority of the rights belonging to the state, personified by the ruler ("L'État, c'est moi"), over the subjects' rights and, at the same time, emphasis on the obligations of the subjects to the state (ruler).

Paradoxically, subjecthood – seemingly regressive to the institutions of municipal citizenship – was an important bridge on the way to the building of state citizenship since it weakened the estate and feudal order and defined the state of subordination of individuals to the central authority and at the same time membership in a particular state.³⁴ Therefore, subjecthood established a clear external demarcation between indigenes and foreigners. By contrast, in the estate monarchy, municipal citizenship was an indicator of the internal division between a state's members often from within the same ethnic community, albeit differentiated by their belonging to various estates. However, the institution of subjecthood equated the entire population of the state not in rights but obligations to and dependence on one ruler. Despite its shortcomings, this condition undoubtedly contributed to the constitution of nations.³⁵

It is hardly surprising that some scholars discern some features of citizenship in the subjective realities of an absolute monarchy. This has to do with the fact that, despite the much-limited freedom of the state's members, the absolutist system respected some of their essential rights. A subject to the absolute monarch was therefore often referred to as a citizen with limited rights. Such a passive citizen was a "disenfranchised" subject to the crown, who enjoyed the right to life, personal freedom and usually had a guarantee of inviolability of their property. The limits of "civil" freedom were based on growing legalism, which limited the ruler's absolutism.

Amid the realities of the epoch, one apologist of absolutism Jean Bodin created a passive citizen's conceptual model.³⁶ According to this 16th-century thinker, the attribute of a member of *civitas* was not to have political freedom – as Aristotle had formulated many centuries earlier – but to be

³³ K. Trzciński, *Obywatelstwo w Europie...*, op. cit., pp. 13–14, 184, 241–242.

³⁴ S.E. Finer, *Empires, Monarchies and the Modern State*, Oxford 1999, pp. 1298–1299.

³⁵ K. Trzciński, *Obywatelstwo w Europie...*, op. cit., pp. 101–108.

³⁶ See: Jean Bodin, *The Six Books of the Republic*.

personally free and subject to the ruler's sovereignty. Moreover, citizens were not at all characterised by equality before the law since their position in the state depended on such different factors as social origin, gender, age, or merit. Too hasty, however, would be the conclusion that citizenship remains in this concept nothing more than upgraded subjecthood. Since Bodin came to the important conclusion that citizenship could mean a political-legal relationship, a mutual commitment, according to which the sovereign, in exchange for the fidelity and obedience of his subjects, must serve them justice, and help and protect them. The quasi-citizenship was thus understood, in essence, primarily as a state of binding the citizen-subject with the sovereign, as well as with the territory over which he exercised his power.³⁷

A significantly different approach to the question of the human position in the state was presented by a 16th-century English legal researcher Thomas Smith, who analysed the process of conceptual revaluing of the term "citizen" and separating it from the concept of burger (city-dweller).³⁸ This scholar clearly recognised the aberration of a situation in which certain state members were entitled to some rights just because of their residence place (city). In Aristotle's spirit, he also stated that a citizen is an individual with a real influence on power. Smith went even further since he considered as citizens those individuals who held state or municipal positions and therefore formed a "political nation". However, given the epoch's realities, this privilege still had to correspond with their wealth, and in part with education.

A more important practical meaning during this period was manifested in extension of the sphere of individual autonomy of state members, guaranteed by the landmark legislation – the Habeas Corpus Act of 1679 and the Bill of Rights of 1689. These British legal achievements inspired the remarkable individuality of John Locke, who became a proponent of natural human rights: the right to life, personal freedom, and property.³⁹ He may have been the first to make a clear distinction between human rights and citizens' rights. Locke regarded the former as natural rights and the latter as arising from a social contract constituting the state. Locke basically became the creator of the idea of the personal rights of the individual living in the community. This community, known as "civil society", was based on a jointly established law equal to all members. However, equal-

³⁷ K. Trzciński, *A Reversal of Perspective: The Subject as Citizen under Absolute Monarchy, or the Ambiguity of Notions*, in: *The State and Development in Africa and Other Regions*, ed. K. Trzciński, Warsaw 2007, pp. 319–332.

³⁸ See: Thomas Smith, *De Republica Anglorum*.

³⁹ See: John Locke, *Two Treatises of Government*.

ity of rights did not imply the universality of political rights, restricted in Locke's thought by the property qualification. The property owned by citizens (often in correlation with education) was proof of a sense of responsibility and maturity to lead the state's affairs.

Enlightenment

Locke's thought accelerated the formation of an Enlightenment world-view that openly opposed absolutist power and restriction of human freedom.⁴⁰ A measurable example of this was the view of Montesquieu, who considered that a state of affairs in which state members have no influence on authority is incompatible with the "spirit of rights".⁴¹ Montesquieu promoted the idea of establishing authority whose character corresponds to the needs of the people. In fact, it was nothing more than a cry for civil liberties, especially the emancipation of the commoners' estate. In this concept, political freedom was supposed to be the backbone of a rule-of-law state. However, access to it was still dependent on the state of ownership. Consequently, political rights were intended to serve only those who, because of their wealth, possibly their education or the dignity they held, were aware of how to exercise them.

As an indicator of the state members' political freedom, the question of ownership strongly contrasted with the vision of the state and society outlined by Jean-Jacques Rousseau.⁴² His citizenship model generally involved equality of all state members also in the domain of political rights (universal will), which was a real influence in the creation of state authorities and the adoption of laws (sovereignty of the people). On the other hand, the citizenry took the supreme legislator's full form when it was competent to pass the law through democracy, not so much representative but rather direct. This bold universal citizenship proposal significantly expanded the political freedom of state members, but at the same time, interestingly, limited their property rights. According to Rousseau, wealth inequality determined social divisions, leading directly to human enslavement, and thus became the main enemy of citizenship's universality.

⁴⁰ K. Trzciński, *Mysł europejska w poszukiwaniu definicji obywatela. Rzecz o koncepcjach statusu jednostki w państwie przed przełomem rewolucji francuskiej. Kontekst historyczny, podobieństwa i różnice, znaczenie*, „Przegląd Humanistyczny”, no. 3/2006, pp. 59–81.

⁴¹ See: Montesquieu, *The Spirit of the Laws*.

⁴² See: Jean-Jacques Rousseau, *The Social Contract; A Discourse on Political Economy*.

The issue of citizenship was raised in his work by another great luminary of the Enlightenment, Immanuel Kant. He attempted to create an ideal state model with a “civic” system based on a common legal order for all its members.⁴³ Kant was one of the first modern thinkers to make a clear distinction between territorial state-membership (*Staatsangehörigkeit*) and citizenship (*Staatsbürgerschaft*). The *Staatsangehörigkeit* determined the external division between the indigenes and foreigners and implied a basic catalogue of rights and obligations for the whole group of the former. The *Staatsbürgerschaft* generated an internal division of state members and meant full public rights and unfettered participation in state affairs by a part of the community called active citizens. The passive citizens, although subject to the law, could not participate in its creation. The possibility of acquiring a full “civic personality” had to be linked once again to obtaining economic independence. The Kantian idea of citizenship was a denial of Rousseau’s universal citizenship concept, but it was a reasonable proposal, taking into account the epoch’s reality. Moreover, Kant’s thought did not put a simple sign of equality between human beings’ freedoms and civil rights.

French Revolution

The French Revolution, especially its “The Declaration of the Rights of Man and of the Citizen” of 1789, brought the first modern legal construction of state citizenship in Europe. The ideological foundation for this landmark piece of legislation was provided, inter alia, by Montesquieu’s and Rousseau’s work. The direct patterns of the Declaration, on the other hand, can be seen in the American “Virginia Declaration of Rights” and the “Declaration of Independence” of 1776, which in turn drew largely from the thought of John Locke. Not only did the French Revolution overthrow the absolutist order in France, it liberated the development forces dormant in the third state (commoners, bourgeois) and introduced a republican system (by no means irrevocably), but above all, it emancipated the human individual and radically changed their position in the state. The National Constituent Assembly members who enacted the Declaration did not precisely delineate human rights from civil rights, but coexisted in symbiosis.

The Declaration explicitly introduced a category of personal rights. The document considered freedom, ownership, security, and resistance against oppression to be the citizen and man’s essential attributes. Free-

⁴³ See: Immanuel Kant, *The Metaphysics of Morals*.

dom was defined as the possibility for anyone to do anything that does not harm the other, and the end of such freedom could only be defined by legal act.⁴⁴ The law could only prohibit what was harmful to society, and anything that was not prohibited was to be allowed.⁴⁵

While the entire catalogue of human rights announced in the Declaration was also the same as that of a citizen, not all French citizens' rights had to apply to the whole human race. The following can be regarded as strictly civil: the principle of the supremacy of the people, equality before the law, freedom of belief, expression and printing, or the broad political rights of individuals in the state in general. However, was it realistic to assign these landmark regulations to a particular place and nation? History has clearly shown that it did not. Indeed, the Declaration's guiding provisions entered into most European countries' constitutions over the next two centuries. Nevertheless, only some members of a particular political organism initially enjoyed all the civic rights.

The idea of universal civil rights outlined in the Declaration charters had to wait a long time for its practical implementation. Its content was a too fragile social *modus vivendi*. A deep reflection came soon after the document was enacted. On the one hand, the Declaration was criticised for not exhausting civil liberties as it especially lacked a provision on freedom of association. On the other hand, it was accused of creating politically immature and uneducated "new" citizens who were given many different rights while having no responsibilities. Therefore, it is not surprising that the Electoral Act, which was only delivered a few months after the Declaration, introduced at the initiative of Emmanuel-Joseph Sieyès a property (or rather tax) qualification. It effectively divided the civic body into passive citizens (*citoyens passifs*) and active citizens (*citoyens actifs*), with the right to vote given only to the latter.

In France's first constitution, adopted in 1791, domicile was used primarily to identify the citizen. The essential and repeatedly emphasised, in this document, right of blood defining the "qualité de français" was linked to the right of soil in terms of foreigners who, living in France, became citizens if they were born there. Therefore, the constitution recognised as the fundamental determinants of citizenship: residence place, origin, and place of birth. These determinants guaranteed state membership with several fundamental rights, but political rights were still determined by wealth as the essence of active citizenship.

The dissatisfaction of passive citizens with their overt discrimination in the state led to the adoption in 1793 (by the National Convention, con-

⁴⁴ The Declaration of the Rights of Man and of the Citizen of 1789, art. IV.

⁴⁵ Ibidem, art. V.

stituted in almost universal suffrage) of a new constitution and the accompanying revised and expanded Declaration of the Rights of Man and the Citizen. In principle, it was made by, known for their later terror, the Jacobins under Maximilien Robespierre. At the beginning of the revolution he was already among staunch critics of the limitations of citizens' political rights, arguing that each individual has the right to participate in adopting laws that governed them and in the public administration. Otherwise, it would not be true that all French people were equal and that everyone was a state citizen. Consequently, the 1793 Declaration emphasised the previously violated principle of equality for all citizens.⁴⁶ Equality had been placed before goods such as freedom, security, and property.⁴⁷

Progressive and universal social rights to work, social welfare, and education have also grown out of the principle of equality since public support was considered as a "sacred debt" and education as the need of all.⁴⁸ The Jacobin Declaration's importance for developing the idea of citizenship lies primarily in promoting social rights.

On the other hand, the new Declaration of the Rights and Duties of Man and of the Citizen of 1795 appeared to be a seemingly retrograde step. However, it is worth noting that it contained civic duties omitted in the two previous Declarations. The new act required state members to respect the letter of the law and the authorities, pay taxes fairly, and comply with their defence obligations.

The French Revolution represented a real breakthrough in the centuries-old development of citizenship.⁴⁹ First, the theoretical products of enlightenment and previous socio-political thought could, by trial and error, be put into practice at the national level by a large European state. The confrontation between theory and practice was undoubtedly brutal. However, it demonstrated the need for a more flexible adaptation of the state authorities to its members' needs in the future.

Secondly, the revolutionary changes gave anachronistic importance to the status of a subject. A subject, understood as a member of one of the estates entirely dependent on the absolute monarch, was transformed into a citizen, understood – in the most subtle form – as a beneficiary of personal rights and equality before the law shared with other fellow citizens. This status, constitutionally guaranteed, had significant value, especially

⁴⁶ Declaration of the Rights of Man and the Citizen of 1793, art. XXIX.

⁴⁷ Ibidem, art. II.

⁴⁸ Ibidem, art. XXI and XXII.

⁴⁹ K. Trzeciński, *Początki nowożytnego obywatelstwa w Europie – obywatel państwa i katalog jego praw w dokumentach Rewolucji Francuskiej*, „Studia Europejskie”, no. 2/2005, pp. 67–94.

in terms of personal integrity and the individual's property inviolability. Universal equality before the law, and therefore the possibility of equally asserting one's rights before a court, meant forming a civil community consisting of members enjoying the same freedoms. It was a denial of both the essence of estate realities and municipal citizenship status, once their byproduct.

Thirdly, the French Revolution in the Jacobin legal acts created a civic community model in which the gender qualification and the (understandably) age qualification were in principle the only limits on the universality of political rights. It was a somewhat abstract achievement but simultaneously indicating the future direction of the legal institution of citizenship's evolution.

Fourthly, the legal definition of citizenship strengthened the national character of the state. Consequently, the more widespread the concept of a state citizen became in national law, the more obvious became the contrast to the concept of a foreigner or a citizen of another state. However, the accompanying process was the development of solutions that provide for the possibility of granting citizenship to foreigners who meet certain conditions and, above all, who had a sufficiently long domicile.

Fifthly and finally, universal state citizenship – taking on the dimension of national citizenship and delimitating borders of a homogeneous civic community to which almost exclusively the inhabitants of the state (usually born there) belonged – created conditions for legal discrimination against foreigners and inspired the subsequent flourishing of the ideology and politics of nationalism.⁵⁰ At the same time, however, citizenship cemented among civic community members a sense of attachment to the state and built a real civic bond between its depositaries, reinforcing the importance of terms such as homeland and patriotism.

The Nineteenth Century

After the French Revolution, the directions that the development of the idea of citizenship followed were determined by critical historical events, including the final elimination of serfdom and the revolutionary upheaval of the Springtime of the Peoples. The latter occurrence made supporters of absolutist power aware of the inevitability of giving political rights to a more significant part of the state's adult members and were essential for the general evolution of personal rights and freedoms on the European continent in the 19th century. An important step in the

⁵⁰ R. Brubaker, *op. cit.*, pp. 43–48.

development of nation-states was the unifications of Germany and Italy. However, the newly created states often did not focus on their members' civil liberties but on consolidating their unity.⁵¹ The Italian ideologist G. Mazzini and other 19th-century nationalists argued that the state's borders should be in line with the borders of a nation understood in the ethnocultural sense. Nation-states, in defence of their interests, increasingly closed themselves to foreign citizens or subjects. Consequently, citizenship acquired the characteristics of an exclusive external demarcation. The proliferation of passports and visas became a tangible, formal expression of this trend. A significant context here was substantial population growth in European countries and associated economic migrations.

Meanwhile, in the 19th century, the division into two contrasting citizenship patterns was clearly detected at the conceptual level. The first is primarily associated with the thought of previous epochs' luminaries such as Aristotle, Machiavelli, and Rousseau and is called the republican or classical concept of citizenship. The second is referred to as a liberal model, and its beginnings are traced to the ideas of John Locke, and its development in the works of Wilhelm von Humboldt,⁵² Benjamin Constant,⁵³ and John Stuart Mill.⁵⁴ This distinction is linked to the characteristic abandonment of several French Revolutionary ideals, especially in the 19th century, and evolving a liberal, individualistic approach to issues related to state members' status.

In the post-Enlightenment period, the classical concept began to give way to the liberal one. From the perspective of republican tradition, citizenship was perceived through the prism of the exercise of full political rights and, consequently, as active participation in the community. The republican spirit of citizenship not only presupposed the possibility of active involvement in state affairs but even a kind of duty to act for the common good, which appeared in principle to test the individual's civic attitudes. The liberal concept of citizenship was created not only in opposition to its republican predecessor but also in contradiction to democracy in general. This antagonism manifested itself mainly in a different understanding of the essence of an individual's civil status in a state. For liberal philosophy, individual rights were a priority, not the

⁵¹ K. Trzciński, *Prawo obywatelstwa a zagadnienia imigracji na tle doświadczeń niemieckich*, „Państwo i Prawo”, no. 2/2003, pp. 64-77.

⁵² See: W. von Humboldt, *Ideen zu einem Versuch, die Grenzen der Wirksamkeit des Staats zu bestimmen*.

⁵³ See: B. Constant, *The Liberty of Ancients Compared with that of Moderns; Principles of Politics Applicable to All Governments*.

⁵⁴ See: John Stuart Mill, *On Liberty*.

common good. Moreover, this philosophy paid more attention to civic rights rather than obligations. In its classical form, liberalism saw state power as a body that upholds citizens' security, freedom, and property. Consequently, liberals were more interested in whether the government was doing its job and therefore serving the state members' interests than in what portion of them took part in its creation. Citizens, by definition, did not directly constitute power in this concept but made that obligation via their representatives in accordance with the principle of representative governments. An important aspect of liberal thought, but at the same time a kind of deviation from the principles of democracy, was – often twistedly argued or presented only implicitly – the refusal to grant all state members of political rights. While denying the universality of the passive and active right to vote, liberals simultaneously preached equality for all citizens before the law.

However, according to liberal thinkers, this antinomy was only a sham. The liberal concept of citizenship referred to the rules of the law of nature and, as a result, defended such fundamental goods for individuals as freedom, equality, and private property. These rights were still to come from the state of nature. On the other hand, state power was a novum typical for a political state (nation-state) and had to be elected according to rules that did not exist in the pre-state period. Therefore, natural human freedom did not imply political freedom at all, and equality meant, in principle, the same position before the law for all. State power was mainly established to protect private property and therefore had to act rationally. For this to happen, it should be made up of responsible people. The maturity of political freedom could, above all, be demonstrated by the high material position and the education of the citizen.

Liberalism, assuming the lack of universality of voting rights, promoted at the same time a number of other rights having political connotation (freedom of expression, printing, assembly, association), which over time had to inevitably lead to the universalisation of voting rights and, therefore, to a change in an essential part of the whole concept. Liberal thought finally recognised the importance of full political freedom and gave it the value of guaranteeing freedom in other areas of human life. J.S. Mill was the forerunner of this trend.⁵⁵ However, the individual's legal position in the state and their autonomy *vis-à-vis* the state have always remained at the heart of citizenship in liberal terms. Equal and personal treatment of citizens by state power was manifested in the demands of liberals, such as the personal integrity of the individual, freedom of religion, freedom

⁵⁵ See: John Stuart Mill, *Considerations on Representative Government*.

of conscience, the secrecy of correspondence, and the inviolability of residence. These rights created and guaranteed – unlimited by the state authorities – the individual sphere of privacy.⁵⁶

In the 19th and early decades of the 20th century, European legislators were fascinated by the idea of constitutionally guaranteed civil rights that corresponded to the liberal concept of citizenship. A characteristic feature of the beginnings of the whole trend of constitutionalism in the Old Continent was the imitation of at least some of the solutions proposed in the French Declaration of 1789.⁵⁷ It was originally held on two levels: personal rights and freedoms and political rights. Among the European countries with the most important constitutional *acquis* in regulating individuals' status during this period are France, Belgium, Germany, and Austria. Virtually every constitution adopted in these countries referred more narrowly or broadly to the rights enjoyed by citizens (or subjects), less often to human beings as such.

The Twentieth Century

British sociologist T.H. Marshall is the creator of what is now considered a classic three-member typology of civil rights, which provides an in-depth analysis of modern citizenship in evolutionary terms.⁵⁸ This researcher drew attention to the permanent process of enriching the idea of citizenship with new content, starting from the 18th century to the 20th century. His pattern of the increase in new civil rights was presented in the example of the United Kingdom. However, it is a logical order with *mutatis mutandis* reference to many other European countries. From Marshall's perspective, territorial state-membership was enriched in the 18th century with some fundamental personal rights and freedoms (civil citizenship) that strengthened the position of man in the state, including personal freedom, equality before the law, property and contract rights, freedom of religion and conscience, freedom of expression and belief, the right of association. The 19th century was mainly associated with the development of political rights (political citizenship), especially the promotion of their fundamental essence: active and passive voting rights in local and parliamentary elections. This state was an inevitable consequence of the French Revolution and an outcome of industrial societies'

⁵⁶ K. Trzeciński, *Obywatelstwo w Europie...*, op. cit., pp. 169–180.

⁵⁷ S.E. Finer, *Notes Towards a History of Constitutions*, in: *Constitutions in Democratic Politics*, ed. V. Bogdanor, Aldershot 1988, pp. 27–28.

⁵⁸ T.H. Marshall, *Citizenship and Social Class*, in: idem, *Class, Citizenship and Social Development: Essays by T.H. Marshall*, Chicago 1977, pp. 71–134.

formation and education's progressive development. However, political freedom was, in fact, limited for a long time, largely by means of electoral laws armed with various qualifications. The flagship example of this state of affairs was the United Kingdom, where the division between active and passive citizens was extremely persistent. The British evolution of universal suffrage lasted for a century and concerned the first decades of the 20th century. According to Marshall, however, the 20th century was part of the history of the development of citizenship institutions mainly through the introduction of a number of social rights (social citizenship), allowing every citizen to enjoy a basic level of economic and social well-being, including the right to education and various social benefits.⁵⁹

Although rational and convincing, Marshall's concept had one fundamental drawback – it referred, especially in the matter of the political rights of citizenship, to the male part of state societies. The 19th century became for men the final period of the property qualification for having voting rights. However, the principle of equality of all citizens remained defective long after political rights were granted to all men of legal age in the state since, at that time, the category of passive citizens usually still existed and applied to women. The idea of citizenship in Europe was strictly patriarchal during its long evolution, which was inextricably linked to the societies' social organisation in which men played a dominant role. In the 19th century, J.S. Mill loudly demanded the granting of voting rights to women.⁶⁰ His harsh criticism of men's social and political domination and patriarchal family relations aimed to make legislators aware that since a monarchess could hold the highest political office in the state and did so significantly (while betraying an innate ability to govern, such as it was in cases of Queen Victoria and Queen Elizabeth I), a woman could make an informed choice of her political representatives as well. However, in an age of strong emphasis on national ideas, a woman began to be seen not only through the prism of her position in the family as a wife and mother but also as a symbol of the nation's existential continuity. There is no doubt that the actual determinant of the quality of women's citizenship status in different European countries was that they had the same rights as men. In some European countries, educational equality and, in the case of certain professions, occupational equality between women and men was achieved at the end of the 19th century. Nevertheless, the radical change in women's status in the state came only in the first decades of the 20th century, when they were finally endowed with full active and passive

⁵⁹ T.H. Marshall, *Social Selection in the Welfare State*, in: idem, *Sociology at the Crossroads: And Other Essays*, London 1963, pp. 245–266.

⁶⁰ See: John Stuart Mill, *The Subjection of Women*.

electoral rights in many European countries (e.g., in Norway in 1913, in Poland in 1918, in the United Kingdom in 1928). However, in some European countries, it happened only in the second half of the 20th century (e.g., in Greece in 1952, in Switzerland in 1971, in Portugal in 1976).⁶¹

In the second half of the 20th century, citizenship lost part of its hermetic character, so that the very idea was perhaps even devalued. This occurred because, so far related mainly to citizenship and guaranteed by state law, the catalogue of rights enjoyed by an individual began to be governed by international legal acts and acquired universal status.⁶² However, this universalism is not about general access by state members to rights that are the essence of citizenship, which became a reality in most European countries as early as the first half of the century. It is about the real inclusion in a system of transnational protection of individuals in the sense of humans, not just citizens. The international legitimisation of human rights has led to their position being regarded as dominant in relation to the concept of citizens' rights.

However, the introduction of the human rights category in international law does not automatically extend the rights of members of a particular state, enjoyed because of their citizenship, to all humans. In particular, political rights (including the right to hold public office) remain rights in possession of individuals by reason of their citizenship, and, from the group of personal rights and freedoms, a right to diplomatic and consular protection abroad or even a right to return to the country of citizenship. The same is true of responsibilities. While being in a state's territory requires each individual to respect that state's rights, including the payment of taxes, certain obligations are reserved exclusively or almost always to citizens. Citizenship, therefore, implies, in particular, a defensive duty and duty of fidelity to the state. Extending these obligations to foreign permanent residents would jeopardise the host state's interests and put such residents in a situation of infidelity towards the state of which they remain citizens.

The view of the far-reaching depreciation of the importance of citizenship cannot, therefore, be accepted. Its still significant role can be demonstrated, on the one hand, by the fact that the right to citizenship is recognised as part of human rights⁶³ and, on the other hand, by the tighten-

⁶¹ K. Trzeciński, *Zmierzch obywatelstwa patriarchalnego w nowożytnej Europie. Szkic do badań procesu*, „Szkice Humanistyczne”, no. 1/2005, pp. 235–244.

⁶² *Human Rights Law in Europe: The Influence, Overlaps and Contradictions of the EU and the ECHR*, eds. K. Dzehtsiarou, T. Konstadinides, T. Lock, N. O'Meara, Abingdon 2014.

⁶³ *The Human Right to Citizenship: A Slippery Concept*, eds. R.E. Howard-Hassmann, M. Walton-Roberts, Philadelphia 2015

ing of immigration and naturalisation rules in some European countries. Citizenship remains the primary regulator of an individual's legal position in the state and has a strong external demarcation dimension. Raymond Aron, once examining the possibility of establishing transnational citizenship, concluded that human rights could be fragile when civil rights do not correspond to them.⁶⁴ However, the weight of the international system for the protection of human rights cannot be overestimated, for it is largely about restraining the state from the temptation to violate an individual's rights. Consequently, the human rights-to-civil rights relationship must be regarded as complementary rather than opposing or competitive.

The current development of European citizenship can also serve as another example of citizenship's external opening. Its institutionalization in the Maastricht Treaty of 1992 provided EU countries' citizens with the right to move freely and reside in other EU countries. Moreover, it gives them, *inter alia*, some political rights in their place of residence: active and passive rights in elections for local assemblies and the European Parliament. The Union's citizenship could even be regarded *ex-hypothesi* as a forward-looking displacement of state citizenship in the community.⁶⁵ One can make here a distant analogy to the medieval municipal citizenship, which has fallen in confrontation with state citizenship while transposing on its soil a number of its solutions and values.

Conclusion

For more than two thousand years, the idea and institution of citizenship in Europe has come a long way in its development. Fundamental patterns of citizenship were created in ancient Athens and Rome. Subsequent models – medieval, modern, and contemporary – created in the sphere of theoretical concepts or at the legal level have significantly enriched or, at times, impoverished the original patterns. The meaning of citizenship has been redefined according to specific socio-economic and political conditions. At different stages of evolution, citizenship has covered a narrower or broader part of state societies. Nevertheless, the core of citizenship rights, outlined in ancient originals, remains mostly the same.

From the perspective of more than two thousand years of evolution of citizenship in Europe, the following can be considered as its most important stages:

⁶⁴ R. Aron, *Is Multinational Citizenship Possible?*, "Social Research", vol. 41, no. 4/1974, pp. 638–655.

⁶⁵ Cf. S. Ivic, *EU Citizenship: Towards a Postmodern Conception of Citizenship?*, Wilmington DE 2019.

- making the possibility of having full citizenship dependent on the criteria of origin, sex, and age (Athens);
- recognition of political participation in community affairs as the essence of citizenship (Athens);
- recognition of the importance of civic activity for the duration of the civic community (Athens);
- prioritising equality of citizens before the law (Rome);
- recognition of the place of birth as the primary determinant of having citizenship (Rome);
- admission of the freedmen to the civic status (Rome);
- establishment of municipal citizenship by the local community within the state (cities in the middle ages);
- establishment of forms of citizenship that did not require domicile (cities in the middle ages);
- reception of urban civil liberties by the “political nation” (Middle Ages and Renaissance);
- linking ethnocultural origin and territorial state-membership within the institution of state subjecthood (absolute monarchy);
- recognition of citizenship as a political-legal relationship (Bodin’s thought);
- broadening the sphere of autonomy of the individual (English legislation in the 17th century);
- making access to full citizenship dependent on the value of the property held (cities in the middle ages; the thought of Locke, Montesquieu, Kant, Constant);
- empowerment of the individual in the state through the bestowal of personal rights and freedoms (Locke’s thought; legal acts of the French Revolution);
- constitutionalisation of personal rights and freedoms (legal acts of the French Revolution; 19th century);
- the spread of political rights (especially voting rights) of men (Rousseau thought; French Revolution; 19th century);
- the granting of full civil rights to women (Mill’s thought; 20th century);
- the twilight of the importance of property qualification for civic status (19th and 20th centuries);
- development of social rights (20th century);
- transposition of civil rights into the dimension of human rights protected by international law (second half of the 20th century).⁶⁶

⁶⁶ K. Trzciński, *Obywatelstwo w Europie...*, op. cit., pp. 235–246.

However, at the dawn of the 21st century, citizenship ceased, in principle, to be associated only with members of the state, and began to refer to the depositaries of the rights of the union of states. Although European citizenship remains in a state of development, the very fact of its establishing represents an entirely new quality for the idea. The future will show how the transnational model of citizenship will evolve.

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